

**PERSPECTIVE ICERD ON THE RESPONSIBILITY OF PEOPLE'S
REPUBLIC OF CHINA FOR MINORITY: THE CASE OF UYGHUR**

PUBLICATION MANUSCRIPT



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PERSPECTIVE ICERD ON THE RESPONSIBILITY OF PEOPLE'S REPUBLIC OF CHINA FOR MINORITY: THE CASE OF UYGHUR

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ABSTRAK

People's Republic of China is allegedly committed racial discrimination toward Uyghurs for the last few years. Uyghurs is one of the minority ethnics who live in Xinjiang Uyghur Autonomous Region (XUAR) China. The Chinese government build re-education camp for Uyghurs and being detained even imprisoned without a proper legal procedure. The research aims to know the implementation of Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Responsibility to Protect Perspective in Uyghurs case. The study employed normative legal research with Statute Approach and Case Approach. By using qualitative descriptive method, the study elaborated on how China uphold the minority rights through the implementation of ICERD, and how the international law perspective in the context of responsibility to protect Uyghur case is. The result shows that China has not been successfully implementing ICERD toward minority groups because in practice China does racial discrimination toward Uyghurs. Also, China fails to implement the first pillar of Responsibility to Protect (R2P), where China should protect its citizen from any kind of mass atrocity crimes.

Keywords: *ICERD, Racial Discrimination, Uyghurs.*

I. Background of Research

In recent years, People's Republic of China (PRC) has faced racial discrimination issue about ethnic minority in Xinjiang Uyghur Autonomous Region (XUAR). Since April 2017, around 10 percent of the population in Xinjiang had been detained, imprisoned, even disappeared. 386 Uyghurs intellectuals, scholars, artists, and journalists were detained in a camp which they call as "re-education camp"; including 21 staffs of Xinjiang University, 13 staffs of Kashgar University, 6 staffs of Xinjiang Medical University, 6 staffs of Xinjiang Social Sciences Academy, and 101 students".¹ The number of detainees continue to increase from 2017 to 2019. In October 2018, 231 scholars, students, journalists, and artists had disappeared, some of them were detained and received a prison sentence. The number of detainees is continuously increasing up to 1.5 million Uyghurs who are detained in re-education camp.²

Uyghurs are indigenous people of Tarim Basin, they are the second largest Muslim minority in China. The Xinjiang Uyghur Autonomous Region is the territory of Turkic Muslim ethnic with 11 million Uyghurs and 1.6 million Kazakhs. Uyghurs are not ethnically Chinese in that they are more closely related to the Central Asian people. We can find Uyghurs living within

¹ Prasenjit Duara, The Uyghur American Association, 2019, AAS Statement on Extra Judicial Detention of Turkic Muslims in Xinjiang, PRC, available at <https://uyghuramerican.org/article/aas-statement-extra-judicial-detention-turkic-muslims-xinjiang-prc.html>, accessed on Tuesday, April 2nd, 2019 at 2:28 PM.

² Bahram K Sintash, Uyghur Human Rights Project, 2019, Detained and Disappeared: Intellectuals Under Assault in the Uyghur Homeland, available at <https://docs.uhrp.org/pdf/Detained-and-Disappeared-Intellectuals-Under-Assault-in-the-Uyghur-Homeland.pdf>, accessed on Tuesday, April 2nd, 2019 at 2:36 PM.

the borders of the countries that border Xinjiang, such as Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. They speak Turkic language and use the Arabic alphabet; their language is important to their Muslim heritage and culture.³

Islam and other religions in China are related to the ethnicity. Islam is one of the religions which belong to minority group in China. Most Muslim communities in China have customary regulations like inviting Muslim community to supervise the religious affairs and religious school. Besides that, one of the minority groups, Uyghur is involved in the East Turkestan Islamic Movement (ETIM), that has been changed to be the Turkestan Islamist Party (TIP). In 1989, ETIM was founded to separate Xinjiang from China which could then be governed by Islamist precepts.⁴ ETIM uses extremist violence to achieve its political aim of an independent state. Also, Uyghurs involved in contemporary warzones from Afghanistan to Syria which make China become considered as participant of the global jihadist threat.

Because of this action, the government of Xi Jinping launched a renewed “Strike Hard Campaign” against Violent Terrorism in Xinjiang. The Chinese government concluded that this action, especially some violent attacks in public areas, such as knife attack at the Kunming Railway Station, and bombing in Urumqi, was a kind of threats to national unity which must be abandoned. The Chinese government claimed the attacks were done by the

³ Human Rights Watch, 2018, “Eradicating Ideological Viruses”, available at https://www.hrw.org/sites/default/files/report_pdf/china0918_web.pdf, accessed on Wednesday, March 13th, 2019 at 10:08 AM

⁴ Andrew Mumford, 2018, “Theory-Testing Uyghur Terrorism in China”, *Perspectives on Terrorism*, Vol. 12, No. 5, Vienna, Terrorism Research Initiative, p. 19.

ETIM.⁵

In 2009, it became China's bloodiest incident between Uyghurs and Han Chinese. This incident was occurred in Shaoguan, at Xuri Toy Factory to be exact. On 26 June 2009, six Uyghurs men were accused of raping two Han women, two days later police announced the detention of a worker dismissed from the Xuri Toy Factory who spread the allegation of rape. However, two people of ethnic Uyghur died and more than 118 people were injured because of that allegation.⁶

On 5 July 2009, hundreds of Uyghurs demonstrated at the People's Square in XUAR. The demonstrators protested the authorities who were deemed indecisive after the deaths of Uyghurs workers in Shaoguan. Then, the demonstrators left People's Square and moved to another place in the Southern Part in Urumqi through Nanmen because police were detaining demonstrators. After a few minutes in the Southern part of Urumqi, the police came to give warning such as threw teargas to the demonstrators and fired warning shot into the air. Nevertheless, the demonstration still continued in a peaceful way and the police began beating and detaining demonstrators and the police also threw stones towards them. This situation was more chaotic when police shot one of the demonstrators who demanded justice for the discrimination that had been occurred.⁷

⁵ Stefanie Kam, 2015, "China", *Counter Terrorist Trends and Analyses*, Vol. 8, No. 1, Singapore, International Centre for Political Violence and Terrorism Research, p. 83.

⁶ Amnesty International, 2010, China: "Justice, Justice": The July 2009 Protests in Xinjiang, China, available at www.observatori.org/paises/pais_81/documentos/asa170272010en.pdf, accessed on Wednesday, March 13th, 2019 at 5:44 PM.

⁷*Ibid.*

A day later, large numbers of Han Chinese came to Uyghurs region and began retaliating against Uyghurs with knives, sticks, and spiked steel bars. In this incident, some Uyghurs died because of the attacks which were carried out by Han Chinese. 1.300 people were arrested because of religious extremism and terrorism case.⁸

After the China's bloodiest incident, ethnic clashes are getting worse and government surveillance is getting strict towards Uyghurs. In May 2014, China launched "Strike Hard Campaign against Violent Terrorism" in Xinjiang who has three main goals to be eradicated through this campaign namely separatism, terrorism, and extremism with dictated rule of strict, fast, and heavy.⁹

Because of this campaign, many Uyghurs were imprisoned on terrorism charges and they did not have proper legal rights where they were not permitted to challenge the decision, and they would be quickly put on trial with sentenced to prison. Their lawyers are also under pressure because they could not protest the violation of their client's rights; they would be dismissed from the cases if they did it. The lawyers also said that in Xinjiang, there were many terrorism cases that did not completely prescribe court procedures, and usually the decisions had been decided before the trial was carried out with the

⁸ *Ibid.*

⁹ Renee Xia, Victor Clemens, Frances Eve, Chinese Human Rights Defenders, 2018, China's Counter-Terror Campaign Indiscriminately Targets Ethnic & Religious Minorities in Xinjiang, available at <https://www.nchrd.org/2018/07/criminal-arrests-in-Xinjiang-account-for-21-of-chinas-total-in-2017>, accessed on Tuesday, April 2nd, 2019 at 1:32 PM.

government or the official who decided the sentence, not the judge.¹⁰

Ilham Tohti was a Uyghur scholar who became one of the victims of the strike hard campaign. Ilham Tohti was a lecturer who taught economics at the National Ethnic Minority University in Beijing. Ilham Tohti also shared some information regarding Uyghurs through a website. In 2014, he got a life sentence because of separatism accusation.¹¹ Before being imprisoned, Uyghurs were detained in re-education camp and after that the detainees would be moved to prison without any detail explanation on criminal charges or prison sentences; prosecutions and sentences were often carried out secretly. While others who were not being detained or imprisoned must follow re-education program in their village.

Uyghurs who were detained for the first time were forced to stand for 12 hours. Also, they were forced to sing political songs, learned speeches of the Chinese Communist Party, ate pork which is strictly prohibited in Islam, they were also forbidden to pray and to grow a beard, and the only language allowed in the camp was Mandarin. Outside the camp, state has used systems of surveillance to monitor their daily behavior and control their speech. The Xinjiang authorities also make foreign ties a punishable offense, targeting people who have connection with 26 sensitive countries such as Kazakhstan, Turkey, Malaysia, Indonesia, and etc. If Uyghurs have been to these countries, have families, or communicate with people there, they will be interrogated,

¹⁰ Human Rights Watch, *Loc. Cit.*

¹¹ Renee Xia, Victor Clemens, Frances Eve, *Loc. Cit.*

detained, and even imprisoned.¹² Discriminations are not only occurred inside the camp but also carried out outside the camp. Every university requires Mandarin language while they are taught in their own language in Uyghurs schools, but universities require a lower test score for Uyghurs and Han, this cause an imbalance of human resources between minorities and Han Chinese.

When Han Chinese immigrate to Xinjiang where they have better education than Xinjiang people, Han Chinese can get higher paying jobs. This matter makes scholars believe that this is one of the ways to reduce Uyghurs as minority groups to be the second-class citizens through economic, political, and racial inequality. Acts of discriminations which is carried out by the Chinese Government are contrary to policy and regulation of the Communist Party towards minority rights.

Based on the policy and regulation under People's Republic of China Constitutional Law which is made by Communist Party, minorities have equal rights to live according to their customs, beliefs, and free from any discriminations. International human rights group such as the Human Rights Watch, Amnesty International, as well the United Nations (UN) have received many reports that one million Uyghurs are in massive internment camp that is shrouded in secrecy. The UN Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern about discrimination against ethnic minorities in China, such as employment, health, education, culture and adequate standard of living. The CESCR expressed concerns regarding

¹² Human Rights Watch, *Loc. Cit.*

Uyghurs ability to enjoy freedom of religion and the provisions in schools where Mandarin is used as medium instruction to the minority students.

Also, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concerns about discrimination against ethnic minorities in China.¹³ The United Nations Universal Periodic Review (UPR) began their assessment of China's human rights record towards ethnic minority in re-education camp in Xinjiang Uyghur Autonomous Region. But the Chinese Government strictly prohibited the assessment.¹⁴

Evidences show that re-education camp which is held by the Chinese Government is a part of discrimination and has violated the Uyghurs rights as minority. Based on those facts, the researcher is interested in to evaluating the implementation of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in China.

II. Problems Formulation

Based on the background that has been described above, it can be stated that the research problem is "How is the implementation of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in the People's Republic of China?"

III. Research Method

A. Type of Research

The research was conducted under normative legal research method, normative legal research was used to find the truth, whether the existing

¹³ Amnesty International, *Op. Cit.*, p. 10.

¹⁴ *Ibid.*

law is appropriate with the rule of law, whether the command or prohibition is in line with the principles of law, and whether an action is in accordance with the legal principles.¹⁵

The research uses statute approach and case approach. The statute approach was conducted by highlighting some regulations related to the issues while case approach was conducted by reviewing the case related to the issues.¹⁶ The author collected the data from library in order to find the regulation and theory related to the object of research, also focusing on reading and analysis of the primary, secondary materials such as books, journals, case digests, newspaper, magazines, and related supporting media are utilized in this thesis, and the last is tertiary legal materials.¹⁷

B. Type of Data

This research used secondary data that consist of primary legal material, secondary legal material and tertiary legal materials.

1. Among primary legal materials are several regulations and conventions such as:
 - a. Responsibility to Protect (R2P)
 - b. United Nations Declaration on the Elimination of All Forms of Racial Discrimination
 - c. Vienna Convention on the Law of Treaties

¹⁵ Jonaedi Efendi, Johny Ibrahim, 2016, *Metode Penelitian Hukum Normatif dan Empiris*, Jakarta, Prenadamedia Group, p. 125.

¹⁶ I Made Pasek Diantha, 2016, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*, Jakarta, Prenadamedia Group, p. 156.

¹⁷ Jonaedi Efendi, Johnny Ibrahim, *Op. Cit.*, p. 130.

- d. The Constitution law of People's Republic of China
 - e. Law of the People's Republic of China on Ethnic Regional
Autonomy
2. Secondary legal materials consist of several documents related to the primary legal materials as follows:
- a. Books
 - b. Scientific Journals
 - c. Other legal documents related to the issue
 - d. Other non-legal documents related to the issue
 - e. Trusted internet sites
3. Tertiary legal materials include several documents below:
- a. Dictionary
 - b. Encyclopedia

C. Method of Collecting Data

The method of collecting data in the research was done through library research by literature learning. The data in the research were collected by reading, selecting, validating, and analyzing the information related to the topic of the thesis. After having information from the documents such as international legal instrument, book, journal, and others related documents then discussion and analysis were conducted till the author reached the conclusion.

D. Method of Data Analysis

The data were analyzed systematically through juridical qualitative method. Systematically means the data were analyzed based on international law especially state responsibility, and the analysis focused on the implementation of racial discrimination convention. Juridical qualitative means it would be connected to the principle of law, convention, and other related regulations.¹⁸

IV. Result and Discussion

A. Responsibility to Protect (R2P)

A Secretary General, Ban Ki-moon presented three pillars in the 2009 report of the implementation of the responsibility to protect, the three pillars as the concept of Responsibility to Protect (R2P) within the United Nations (UN) system. The first pillar states that every state has a responsibility to protect its populations from any kind of mass atrocity crimes, the second states that international community has a responsibility to assist any states to run the first pillar, and the third pillar states that if any state failed to run the responsibility to protect its populations, appropriate measures must be taken by international community.¹⁹

R2P has some characteristics, among others are narrow but deep.

Narrow means the case in R2P is only restricted to the mass atrocity

¹⁸Johnny Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Second Edition, Malang, Bayu Media, p. 303.

¹⁹ Jared Genser, Global Centre for the Responsibility To Protect, 2018, The UN Security Council Implementation of the Responsibility to Protect: A Review of Past Interventions and Recommendations for Improvement, available at www.responsibilitytoprotect.org, accessed on Sunday, July 21st, 2019 at 10:33 AM.

crimes such as genocide, war crimes, ethnic cleansing, and crimes against humanity. Whereas, deep refers to actions that can be taken by international community through the UN systems and also action by Security Council to solve those violations.²⁰

B. International Convention on the Elimination of All Forms of Racial Discrimination

On December 21st, 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted and entered into force on January 4th, 1969.²¹ ICERD discusses about race which covers color, descent, and national or ethnic origin. According to Dr. J. Craig Venter as the Head of the Celera Genomics Corporation, race is not only about the scientific aspect, but also covers social concept.²²

ICERD condemn racial separation and obliges states parties to punish any racial hatred or any assistance to racist activities, and to prohibit racist organizations both of public and private. Articles 5-7 stipulate responsibilities to protect the equal rights, give compensation to the victims, and combat racial biases through education and others.²³ Aside of that, every state must ensure the rights of non-citizens through the law and

²⁰ Jared Genser, 2018, "The United Nations Security Council's Implementation of the Responsibility to Protect: A Review of Past Interventions and Recommendations for Improvement", *Chicago Journal of International Law*, Vol. 18, No. 2, Chicago, University of Chicago Law School, p. 10-14.

²¹ United Nations Treaty Collection, 2019, International Convention on the Elimination of All Forms of Racial Discrimination, available at <https://treaties.un.org>, accessed on Thursday, May 23rd, 2019 at 8:35 AM.

²² William F. Felice, 2002, "The UN Committee on the Elimination of All Forms of Racial Discrimination: Race, and Economic and Social Human Rights", *Human Rights Quarterly*, Vol. 24, No. 1, United States, The Johns Hopkins University Press, p. 3.

²³ Michael Banton, 2018, *What We Know About Race and Ethnicity*, New York, Berghahn Books, p. 54.

its implementation. It is stated in the General Recommendation No. 30 that state must protect non-citizens from hate speech, racial violence, give access to the citizenship, administration of justice, and economic, social, and cultural rights.²⁴

To ensure that each states party carry out its obligations, there must be an institution that serves as a special body to examine the program of each state's parties. In 1970, an independent body namely the Committee on the Elimination of Racial Discrimination (CERD), started to monitor the implementation of ICERD. CERD is a committee of experts that was established to monitor the ICERD which is composed of 18 independent experts. These experts are elected by secret ballot of those states' parties to the convention.²⁵

C. The History of People's Republic of China in Ratifying the International Convention on the Elimination of All Forms of Racial Discrimination

China has ratified ICERD on December 29th, 1981. Nevertheless, China make a reservation for one of the articles is Article 22 of the Convention and China will not be bound by it.²⁶ Article 22 regulates the dispute between two or more state parties that can be solved by negotiation and other dispute settlement provided for this Convention. The dispute

²⁴ Daisuke Shirane, *The International Movement Against All Forms of Discrimination and Racism (IMADR)*, 2011, *ICERD & CERD: A Guide for Civil Society Actors*, available at <https://issuu.com/dhrpraxis/docs/icerdmanual>, accessed on Thursday, May 23rd, 2019 at 10:09 AM.

²⁵ *Ibid.*

²⁶ United Nations Treaty Collection, *Loc. Cit.*

parties may also refer to the International Court of Justice, or if the dispute parties agreed, they can use another mode of settlement to solve the dispute.

Reservation is a statement which is made by a state when signing, ratifying, accepting, approving or acceding to a treaty, where a state wants to modify the legal effect of certain provisions on that treaty. Reservation is regulated in the Vienna Convention on the Law of Treaties (VCLT) 1969.²⁷

D. The Implementation of International Convention on the Elimination of All Forms of Racial Discrimination in People's Republic of China

1. Adherence to Equality and Unity

China is a multi-ethnic country with 56 ethnic groups consisting of 55 minority groups. Han is the dominant group taking around 92 percent of the total populations. The minority groups which are confirmed by the Central Government namely, *Gelo, Ozbek, Lhoba, Gaoshan, Tajik, Naxi, Jino, Ewenki, Lahu, Jingpo, Xibe, Shui, Tatar, Tibetan, Daur, Qiang, Hezhen, Va, Mulam, Lizu, Kirgiz, Blang, Achang, Zhuang, Yugur, Uyghur, Nu, Dai, Drung, Tu, Pumi, Bai, Russian, Jing, She, Hui, Kazak, Salar, Oroqen, Yi, Yao, Moinba, Miao, Li, Hani, Mongolian, Deang, Tujia, Dong, Manchu, Korean, Bonan, Maonan, Dongxiang, and Bouyei*. Every minority groups have their own languages while *Hui* and *Manchu* speak

²⁷ Eric Neumayer, 2007, "Explaining Reservations to International Human Rights Treaties", *The University of Chicago Press Journals*, Vol. 36, No. 2, Chicago, The University of Chicago The Law School, p. 10.

Mandarin.²⁸ Equality and unity for every ethnic groups are the important policy to resolve any ethnic problems, and they have been defined in the Constitution and Regional Ethnic Autonomy Law 1984.

a. Upholding and Promoting the Unity of All Ethnic Groups

The Constitution combats group of Chauvinism from local and Han ethnic. This action is done for keeping the equality and unity for all ethnic groups. However, in practice PRC also oppresses the practice of Islam and categorizes it as separatism. The government is also criminalizing the wearing of veils and other Islam styles such as beard styles, and are using religious ceremony in weddings. The implementation of halal food become one of illegal activities.²⁹

2. Regional Autonomy for Ethnic Minorities

Regional autonomy is a basic policy which is adopted by the Chinese government, and it also becomes an important part of the political system in China. Autonomous areas for minority groups in China include autonomous regions, autonomous prefectures, and autonomous counties. In 1954, the Constitution of the People's Republic of China was adopted. And in 1984, the Law of the People's Republic of China on Ethnic Regional Autonomy was established. This law discussed systematic

²⁸ Permanent Missions of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland, 1999, National Minorities Policy and Its Practice in China, available at <http://www.china-un.ch/eng/bjzl/t176942.htm>, accessed on Wednesday, July 10th, 2019 at 02:46 PM.

²⁹Sean R. Roberts, 2018, "The Biopolitics of China's "war on terror" and the exclusion of the Uyghurs", *Critical Asian Studies*, Vol. 50, No. 2, United Kingdom, Routledge Taylor & Francis Group, p. 18.

provisions on the political, economic, and cultural rights and also duties of minority groups in autonomous areas.

3. Promoting the Common Development for All Ethnic Groups

a. Strengthening the Construction of Infrastructure Facilities and Promoting the Development of Basic Industries in Minority Areas

In recent years, Xinjiang has completed a number of industrial projects. For example, the Urumqi General Petrochemicals Factory and the ethylene project of the Dushanzi General Petrochemicals Factory. Another communication facility such as the Southern Xinjiang Railway, the Tacheng Airport and the Turpan-Urumqi-Dahuangshan Highway.³⁰

The state also encourages the minority areas to start foreign investment, develop frontier trade based on the local situation, and cooperation in domestic technology. However, the purpose of those projects is contrary in practical. Han dominate higher position in every project comparing to Uyghurs. Most manager in the state sector in Xinjiang are Han Chinese.³¹ In addition, the territory of the minority is rich in natural resources. Because of that, the political leaders have reason to maintain good relationship with residents in minority areas. In fact, more than 80 percent of ethnic minority is suffering from poverty.³²

³⁰ Permanent Missions of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland, 1999, National Minorities Policy and Its Practice in China, available at <http://www.china-un.ch/eng/bjzl/t176942.htm>, accessed on Wednesday, July 10th, 2019 at 02:46PM.

³¹ Xiaowei Zang, 2012, "Age and the Cost of Being Uyghurs in Urumchi", *The China Quarterly*, Vol. 210, United Kingdom, Cambridge University Press, p. 5-6.

³² Rebecca Clothey, 2005, "China's Policy for Minority Nationalities in Higher Education: Negotiating National Values and Ethnic Identities", *Comparative Education Review*, Vol. 49, No. 3, Chicago, The University of Chicago Press Journals, p. 8.

b. Helping the Minority Areas to Develop Education

The state allows the autonomous region to develop their own ethnic education, where the teacher must be able to teach in bilingual in order to learn Chinese language and keep the minority language. However, the policy of bilingual education is failed because in Uyghurs monolingual Chinese education is still implemented.³³

Mandarin Chinese becomes the official language since the Cultural Revolution in the late 1950s, it is implemented in the school as the instruction in minority regions, and the purpose of this language is assimilation. It is contradicted with the Constitution of PRC and the PRC Regional Autonomy Law for Minority that protect the minority rights to use their own language.³⁴

4. Preservation and Development of the Cultures of Ethnic Minorities

The Chinese Government actions in China are contrary to China's constitution and also violate its obligations under international law. The existence of re-education camp in Xinjiang is violating the right to liberty, because the minority will be detained without reasonable accusation. The training in re-education camp included military action, patriotic singing and videos watching, writing personal statement that they will become a

³³ Xiaowei Zang, *Loc. Cit.*

³⁴Yuxiang Wang, JoAnn Phillion, 2009, "Minority Language Policy and Practice in China: The Need for Multicultural Education", *International Journal of Multicultural Education*, Vol. 11, No. 1, Indiana, Purdue University, p. 3-4.

new person. They are taught to replace their burkas with modern Uyghur ethnic dress and to have a secular lifestyle.³⁵

The detainees live not in accordance with their religion beliefs. They are required to learn Chinese language, and they are forced to eat pork, and to drink alcohol as the punishment. They are also forced to replace their loyalty from God to the Chinese state, the reason is that only the government and the party will take care of them.³⁶

There are four kinds of discrimination that happened towards Uyghurs, they are prohibition of Uyghur language use, Uyghur students who are studying abroad must come back to China, the political criminal camp named as re-education center, forced labor and transfer of young Uyghur women to main land China. Racial discrimination also happened towards Mongolian Autonomous Region in People's Republic of China and in Inner Tibet Autonomous Region of People's Republic of China.

People's Republic of China has not been successfully implemented International Convention on the Elimination of All Forms of Racial Discrimination because in the practice China still violate this Convention by detaining Uyghurs without proper legal procedures, aside of others cases that happened in Tibetans Autonomous Region and to ethnic Mongolians. Uyghurs are forced to learn China Communist Party speech

³⁵ Adrian Zenz, 2019, "Thoroughly Reforming Them Towards A Healthy Heart Attitude: China's Political Re-education Campaign in Xinjiang", *Central Asian Survey*, Vol. 38, No. 1, United Kingdom, Routledge Taylor & Francis Group, p.113-115.

³⁶ Joanne Smith Finley, 2019, "Securitization, Insecurity and Conflict in Contemporary Xinjiang: Has PRC Counter-Terrorism Evolved into State Terror?", *Central Asian Survey*, Vol. 38, No. 1, United Kingdom, Routledge Taylor & Francis Group, p. 6-9.

and they are forbidden to pray. Also, Uyghurs are difficult to compete with Han Chinese to get jobs because Uyghurs use their own language to speak.

By doing racial discrimination towards ethnic minorities, China does not run the obligation of R2P, where every state must be responsible and must protect its citizens from various crimes against humanity. China violates ethnic minorities rights by detaining them in re-education camp without proper legal procedures in Xinjiang. Other than that, China also does racial discrimination toward other ethnics in Tibet and ethnic Mongolians.

III. Conclusion and Recommendation

A. Conclusion

People's Republic of China has established Regional Ethnic Autonomy Law in 1984 to achieve equality for minority rights. The Regional Ethnic Autonomy Law is the way of Chinese government to implement ICERD in China. From this Regional Ethnic Law, the Chinese government make some policies regarding education, minority languages, and freedom to keep their religion. However, by seeing the case of Uyghurs, the law has not been successfully implemented. Aside of that, the violation of China to the Uyghurs rights can be categorized as the violation of the ICERD especially when China detains the Uyghur in re-education camp without trial process. China also violates other ethnic minority such as Mongolian ethnics and Tibetans.

China does not run its responsibility toward its populations in the case

of protection from mass atrocity crimes because China violates its responsibility by doing racial discrimination. Every state must protect its populations from mass atrocity crimes. As a consequence of racial discrimination, the ethnic minorities cannot get their minority rights.

B. Recommendation

From the research, the author recommends that Security Council may investigate the existence of re-education camp in order to determine whether the situation is endangering towards Uyghurs. And if it is proven, there must be solution such as negotiation as the first step in giving a warning to People's Republic of China. In this case, the Security Council must prioritize peaceful means in solving problems. If peaceful means have been done, and crimes against humanity still occurred, then through the Security Council may take decisive actions such as military intervention.

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